



Billing Code 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XC049

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; availability of tribal harvest plan evaluation and request for comment.

SUMMARY: Notice is hereby given that the Shoshone-Bannock Tribes have submitted a Tribal Resource Management Plan (Tribal Plan) to NMFS pursuant to the limitation on take prohibitions for actions conducted under Tribal Plans promulgated under the Endangered Species Act (ESA). The Tribal Plan specifies the management of ceremonial and subsistence fisheries in the Salmon River basin in the State of Idaho that potentially affect Snake River salmon and steelhead listed as threatened under the ESA. This document serves to notify the public of the availability for comment of the proposed evaluation of the Secretary of Commerce (Secretary) as to whether implementation of the Tribal Plan will appreciably reduce the likelihood of survival and recovery of Snake River salmon and steelhead.

This notice further advises the public of the availability for review of an Environmental Assessment of the effects of the NMFS determination on the subject Tribal Plan.

DATES: Comments must be received at the appropriate address or fax number (see

ADDRESSES) no later than 5 p.m. Pacific time on [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Written comments on the application should be addressed to the NMFS Salmon Management Division, 1201 N.E. Lloyd Boulevard, Suite 1100, Portland, OR 97232, or faxed to 503-872-2737. Comments may be submitted by e-mail. The mailbox address for providing e-mail comments is: TribalFisheries.nwr@noaa.gov. Include in the subject line of the e-mail comment the following identifier: Comments on Tribal fishery plan in Idaho.

FOR FURTHER INFORMATION CONTACT: Enrique Patiño, at phone number: (206) 526-4655, or e-mail: Enrique.Patino@noaa.gov.

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

Chinook salmon (*Oncorhynchus tshawytscha*): threatened, naturally produced and artificially propagated Snake River spring/summer.

Chinook salmon (*O. tshawytscha*): threatened, naturally produced and artificially propagated Snake River fall-run.

Steelhead (*O. mykiss*): threatened, naturally produced and artificially propagated Snake River basin.

Sockeye (*O. nerka*): endangered, naturally produced and artificially propagated Snake River.

The Shoshone-Bannock Tribes have submitted to NMFS a Tribal Plan describing the management of ceremonial and subsistence fisheries in the Salmon River basin in the State of Idaho. The objective of the Tribal Plan is to harvest spring Chinook salmon in a manner that does not appreciably reduce the likelihood of survival and recovery of the ESU. Impact levels on the listed spring Chinook salmon populations in the ESU are specified by a sliding-scale

harvest rate schedule based on run size and escapement needs as described in the Tribal Plan.

The Tribal Plan sets maximum harvest rates for each management unit or population based on its status, and assures that those rates or objectives are not exceeded. A variety of monitoring and evaluation tasks to be conducted by the Shoshone-Bannock Tribes is specified in the Tribal Plan to assess the abundance of spring Chinook salmon and to determine fishery effort and catch. A comprehensive review of the Tribal Plan to evaluate whether the fisheries and ESA-listed salmon and steelhead populations are performing as expected will be done within the proposed fishery season and at the end of the proposed season.

As required by the ESA 4(d) rule for Tribal Plans (65 FR 42481, July 10, 2000), the Secretary is seeking public comment on his pending determination as to whether the Tribal Plan for fisheries in the Salmon River of Idaho by the Shoshone-Bannock Tribes would appreciably reduce the likelihood of survival and recovery of the ESA-listed Snake River salmon and steelhead.

Under section 4(d) of the ESA, the Secretary is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. NMFS has issued a final ESA 4(d) Rule for Tribal Plans adopting regulations necessary and advisable to harmonize statutory conservation requirements with tribal rights and the Federal trust responsibility to tribes (50 CFR 223.209).

This 4(d) Rule for Tribal Plans applies the prohibitions enumerated in section 9(a)(1) of the ESA. NMFS did not find it necessary and advisable to apply the take prohibitions described in section 9(a)(1)(B) and 9(a)(1)(C) to fishery harvest activities if the fisheries are managed in accordance with a Tribal Plan whose implementation has been determined by the Secretary to

not appreciably reduce the likelihood of survival and recovery of the listed salmonids. As specified in the Tribal 4(d) Rule, before the Secretary makes a decision on the Tribal Plan, the public must have an opportunity to review and comment on the pending determination.

Authority

Under section 4 of the ESA, the Secretary is required to adopt such regulations as he deems necessary and advisable for the conservation of the species listed as threatened. The ESA Tribal 4(d) Rule (50 CFR 223.209) states that the ESA section 9 take prohibitions will not apply to Tribal Plans that will not appreciably reduce the likelihood of survival and recovery for the listed species.

Dated: May 23, 2012.

Angela Somma, Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

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